

REMARKS

Claims 1-50 are pending in the present application. In this amendment, Applicants amend claims 1, 5, 36, 41, 44, and 45. Applicants also rewrite claims 5-32, 49 and 50 in independent form so as not to depend on any rejected base claims.

In the Office Action mailed January 27, 2004, the Examiner rejected claims 1-4, 23, 33, 36, 37, 39, and 40-44 under 35 U.S.C. 102(e) as being anticipated by Zellner et al. (U.S. Patent No. 6,069,882), hereinafter referred to as "Zellner." Furthermore, the Examiner rejected claims 34, 35, 38 and 45-48 under 35 U.S.C. 103(a) as being unpatentable over Zellner. Claims 5-32, 49 and 50 are objected to as being dependent upon a rejected base claims, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim Rejections – 35 USC § 102

Claims 1-4, 23, 33, 36, 37, 39, and 40-44 are rejected under 35 U.S.C. 102(e) as being anticipated by Zellner. Zellner recites the reassignment of active or idle channels based upon priority levels (please see, for example, the abstract as well as the cited portion of Zellner column 1, lines 37-column 2, line 24). Zellner states that if "no idle channel is available for connection of the call to or from the first remote user device, the mobile switch searches the cell for a channel that is being used by a remote user device with a priority that is lower than the priority of the first remote user device." (Zellner column 2, lines 14-18). Applicants' claims 1-4, 23, 33, 36, 37, 39, and 40-44 claim the selection of an open connection based on activity or use of the resource. Applicants' amend independent claims 1, 36, 41, and 44 to add the feature that the selection is "responsive to data traffic activity" in order to highlight this distinction and to expedite prosecution. All of claims 1-4, 23, 33, 36, 37, 39, and 40-44 are now in position for allowance.

Claim Rejections – 35 USC § 103

Claims 34, 35, 38 and 45-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zellner.

Claims 34, 35, and 38 are allowable based upon distinction between Zellner and Applicants' claims pointed out in the 35 USC §102 above section and their base claims 33 and 36 have been amended to highlight this distinction in the same section.

Applicants also amend independent claim 45 to add that the selection is responsive to data traffic activity in order to highlight the above distinction from Zeller.

Claims 34, 35, 38 and 45-48 are now in a position for allowance.

Allowable Subject Matter

Claims 5-32, 49 and 50 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Applicants amend independent claim 5, 49, and 50 to include all features of their respective base claims and so that none of claims 5-32, 49 and 50 depend on any rejected base claims.

REQUEST FOR ALLOWANCE

In view of the foregoing, Applicants submit that all pending claims in the application are patentable. Accordingly, reconsideration and allowance of this application are earnestly solicited. Should any issues remain unresolved, the Examiner is encouraged to telephone the undersigned at the number provided below.

Respectfully submitted,

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